

Douglas A. Hofmann, WSBA #6393
John A. Knox, WSBA #12707
Williams, Kastner & Gibbs PLLC
601 Union Street, Suite 4100
Seattle, WA 98101-2380
Tel: (206) 628-6600

The Crypto Lawyers, LLP
Joseph J. Collement (*PHV* to be filed)
Rafael Yakobi (*PHV* to be filed)
1041 Market Street, #340
San Diego, CA 92101-7233
Tel: (805) 280-6944

Timothy G. Blood (*PHV* to be filed)
Thomas J. O'Reardon II (*PHV* to be filed)
Aleksandr J. Yarmolinet
(*PHV* to be filed)
Blood Hurst & O'Reardon, LLP
501 West Broadway, Suite 1490
San Diego, CA 92101
Tel: (619) 338-1100

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

REFAEL SOFAIR, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

GIGA WATT, INC., GIGAWATT PTE.
LTD., DAVID MATTHEW CARLSON,
and DOES 1-10,

Defendants.

NO.

CLASS ACTION COMPLAINT

CLASS ACTION

JURY TRIAL DEMANDED

1 Plaintiff Refael Sofair (“Plaintiff”) brings this action on behalf of himself,
2 all others similarly situated and the general public against defendants Giga Watt,
3 Inc., GigaWatt Pte. Ltd., David Matthew Carlson and Does 1-10 (together, “Giga
4 Watt” or “Defendants”). Plaintiff alleges on information and belief, except for
5 information based on personal knowledge, as follows:

6 **NATURE OF THE CASE**

7 1. This class action seeks monetary and injunctive relief to remedy
8 Defendants’ failure to timely deploy computer equipment and services to mine
9 cryptocurrency as represented and promised. Defendants fraudulently took
10 thousands of dollars from Plaintiff and each Class Member, knowing they would
11 not deliver on the representations they made to Plaintiff and the Class Members.

12 2. Cryptocurrencies like Bitcoin, Litecoin, Dash, and Ethereum are
13 digital currencies not issued or backed by a government. Instead, these
14 cryptocurrencies are powered by blockchain technology. A blockchain is a ledger
15 of transactions much like a bank maintains. However, unlike banks, copies of that
16 ledger are distributed among a network of unaffiliated computers all over the world
17 who verify, process, and secure every transaction using cryptography. The process
18 by which these computers validate cryptocurrency transactions and release new
19 cryptocurrency units into circulation is referred to as “mining.” Mining can be
20

1 performed by anyone, provided they have the right computer equipment and access
2 to sufficient amounts of electricity to run the equipment. In return for their efforts,
3 miners earn newly released cryptocurrency. Because the mining computers are so
4 powerful, they consume large amounts of electricity and generate large amounts of
5 heat. As a result, mining is typically conducted in a handful of locations in the
6 country where the electricity and land necessary to set up large computer server
7 farms are relatively inexpensive.

8 3. Defendants market a full-service, turnkey cryptocurrency mining
9 solution to people who want to earn money and profit from mining. Defendants'
10 turnkey service includes the sale, set up and operation of the specialized computer
11 equipment at its physical mining facilities in the State of Washington, and then
12 continuing to provide low-cost hosting, maintenance, and repair of the mining
13 equipment. Defendants then distribute the payment earned from cryptocurrency
14 mining to their customers. For the customers, mining is supposed to be a passive
15 way to earn money. They pay Defendants for the set up, then Defendants operate
16 the equipment to generate payment for their customers.

17 4. Contrary to their promises, Defendants employ a bait-and-switch
18 scheme where they charge and collect up to \$3,600 or more for each mining set up,
19 but fail to actually set up or operate the cryptocurrency mining equipment.
20

1 Delaying operation of the cryptocurrency mining service is very costly to
2 customers, especially since mining equipment has a deflationary lifespan and
3 because mining rewards decrease over time. Plaintiff and the Class Members have
4 been injured by Giga Watt's deceptive acts and practices in that they purchased
5 mining services from Giga Watt reasonably believing Giga Watt would deploy the
6 equipment and provide the promised mining hosting services in or around the time
7 the mining equipment was to be purportedly delivered to Giga Watt's facilities in
8 Washington State and that did not occur.

9 5. Plaintiff brings this action on behalf of himself and a class of similarly
10 situated purchasers defined as all those who have purchased mining services from
11 Giga Watt. On behalf of himself and the Class Members, Plaintiff seeks redress
12 and injunctive relief requiring Defendants to truthfully inform purchasers.
13 Defendants operate an enterprise in violation of the federal Racketeer Influenced
14 and Corrupt Organizations Act (18 U.S.C. §§ 1961, *et seq.* ("RICO")), and
15 otherwise engage in conduct which is unfair and deceptive, constitutes a systemic
16 breach of contract, including breaching the implied covenant of good faith and fair
17 dealing, violating the common law, and has resulted in Defendants' unjust
18 enrichment. Based on these violations, Plaintiff seeks injunctive relief, damages,
19 restitution and declaratory relief.

JURISDICTION AND VENUE

6. This Court has original jurisdiction pursuant to 28 U.S.C. § 1332(d)(2) and 28 U.S.C. § 1331. The matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$5,000,000 and is a class action in which there are in excess of 100 Class Members and greater than two-thirds of the Class Members reside in states other than the states in which Defendants are citizens. This Court also has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a) because the claims form part of the same case or controversy.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and 18 U.S.C. § 1965: Many of the acts and transactions giving rise to this action occurred in this District; Defendants' scheme emanated from this District; Defendants are authorized to conduct business in this District; and Defendants have intentionally availed themselves of the laws and markets within this District through the promotion, marketing, distribution and sale of the mining equipment and services in this District, do substantial business in this District, and are subject to personal jurisdiction in this District. Further, Giga Watt, Inc. is headquartered in this District.

8. This Court has personal jurisdiction over Defendants because Defendants are amenable to service of process, are co-conspirators, and each has

1 sufficient minimum contacts with this District and has purposefully availed itself
2 of the privilege of conducting business in the State of Washington so as to render
3 the Court's exercise of jurisdiction permissible under traditional notions of fair
4 play and substantial justice. This Court also has personal jurisdiction over all
5 Defendants pursuant to Federal Rule of Civil Procedure 4(k)(1)(A) because they
6 would be subject to the jurisdiction of a court of general jurisdiction in
7 Washington.

8 **PARTIES**

9 9. Plaintiff is a citizen of the State of New York. From August 18, 2017
10 through August 29, 2017, Plaintiff purchased Defendants' mining service,
11 including the equipment and hosting services for eight mining computers that were
12 to be operational at Giga Watt's Washington facility shortly after delivery. The
13 purchases included:

- 14 a. August 18, 2017, one Antminer L3+ cryptocurrency miner and one
15 Antminer S9 cryptocurrency miner for a total of \$4,190.00 that Giga
16 Watt promised would be delivered and deployed/operational in "Late
17 October."
- 18 b. August 21, 2017, three Antminer D3 Dash cryptocurrency miners for
19 \$6,897.00 that Giga Watt promised would be delivered and
20 deployed/operational in "November."
- c. August 22, 2017, two Antminer S9 miners for \$3,400.00 that Giga
Watt promised would be delivered and deployed/operational in "Late
October."

d. August 29, 2017, one Antminer L3+ miner for \$2,490.00 that Giga Watt promised would be delivered and deployed/operational in “Late October.”

10. Pursuant to Giga Watt’s representations, on which Plaintiff relied, the equipment Plaintiff purchased was to be hosted and operated at Giga Watt’s facilities upon delivery. Giga Watt either substantially delayed deployment or has flatly failed to deploy the equipment, as follows:

| Mining Equipment (Number Purchased) | Represented Deployment Date | Actual Deployment Date |
|--|--|--|
| S9 Miner (3) | October 2017 | Not deployed. |
| D3 Miner (3) | November 2017 | One miner not deployed. Two delayed until February 2018. |
| L3+ Miner (2) | October 2017 | Two miners delayed until February 2018. |

Had Plaintiff known Giga Watt would not provide the equipment and services as promised, Plaintiff would not have purchased the mining equipment from Giga Watt and would not have lost the money and income caused by the payment for the mining services and the delays. Plaintiff suffered injury in fact and lost money and property as a result of Defendants’ conduct.

11. Defendant Giga Watt, Inc. is a Washington corporation, with its principal place of business in East Wenatchee, Washington. From its offices located in East Wenatchee, Giga Watt markets and sells cryptocurrency mining

1 services, including equipment and hosting services to customers worldwide. Giga
2 Watt, Inc. is controlled by its CEO and founder, David Matthew Carlson. Giga
3 Watt, Inc. is a co-participant in the unlawful conduct at issue.

4 12. Defendant GigaWatt Pte. Ltd. is a Singapore private exempt company
5 (U.S. equivalent of a closely held corporation), with its principal place of business
6 in Singapore. GigaWatt Pte. Ltd. markets and sells cryptocurrency mining services,
7 including equipment and hosting services to customers worldwide, and ships the
8 mining equipment to the State of Washington to be hosted by Giga Watt, Inc.
9 GigaWatt Pte. Ltd. actively conducts marketing and sales activities throughout the
10 U.S. GigaWatt Pte. Ltd. is a co-participant in the unlawful conduct at issue.

11 13. Defendant David Matthew Carlson (“Carlson”) is a resident of the
12 State of Washington. Carlson formed Giga Watt, Inc. on December 15, 2016;
13 purportedly as a successor to the Bitcoin-mining company MegaBigPower, which
14 he founded in 2012. Carlson is the CEO and founder of defendant Giga Watt, Inc.
15 Carlson is intimately involved in the relationships and operations between and
16 amongst Giga Watt, Inc. and GigaWatt Pte. Ltd. Carlson, using the other
17 defendants, created and implemented the scheme alleged here and, along with the
18 other defendants, is responsible for the acts and omissions alleged. Carlson was
19 consulted and made decisions regarding numerous issues affecting the marketing,
20

1 sale and deployment of the cryptocurrency mining services at issue. Carlson was
2 involved in advertising decisions, and actively advertised Giga Watt's mining
3 services by himself appearing in promotional videos for Giga Watt, and
4 participating in in-person sales presentations to potential Giga Watt customers.
5 Carlson has also taken part in other miscellaneous aspects of Giga Watt's
6 operations, including very actively responding to inquiries from Giga Watt's
7 customers and the public through Giga Watt's instant messaging service, including
8 providing information regarding the status of mining equipment deployment.

9 14. Plaintiff is ignorant of the true names, capacities, relationships and
10 extent of participation in the conduct alleged against the defendants sued herein as
11 Does 1 through 10, but is informed and believes that the Doe defendants are legally
12 responsible for the wrongful conduct alleged herein and therefore sues these
13 defendants by such fictitious names. Plaintiff will amend this complaint to allege
14 the true names and capacities of the Doe defendants when ascertained.

15 15. As alleged further below, at all relevant times, each of the Defendants
16 was the agent, employee, representative, partner, joint venturer, and/or alter ego of
17 the other Defendants and, in doing the things alleged herein, was acting within the
18 course and scope of such agency, employment, representation, on behalf of such
19
20

1 partnership or joint venture, and/or as such alter ego, with the authority,
2 permission, consent, and/or ratification of the other Defendants.

3 **FACTUAL ALLEGATIONS**

4 **A. Cryptocurrency Mining**

5 16. Cryptocurrencies are digital currencies, which use encryption
6 techniques to regulate the generation of new currency units and process
7 cryptocurrency-based transactions. Examples of cryptocurrencies are Bitcoin,
8 Litecoin, Dash, and Ethereum. Unlike fiat currency (such as U.S. dollars and
9 Euros), cryptocurrencies are not issued or backed by a government. Instead, they
10 are released into circulation through a digital, decentralized process called
11 “mining.”

12 17. Cryptocurrency mining has two purposes. First, it is the computerized
13 process by which cryptocurrency-based transactions are recorded, verified and
14 approved, thereby allowing cryptocurrency to be used as a medium of exchange or
15 unit of account. Second, mining is how new cryptocurrency units, such as Bitcoin
16 “coins,” are released. For example, approximately every 10 minutes, 12.5 new
17 Bitcoins are released into circulation as a “block reward” for miners, who
18 proportionately share in the reward relative to their efforts in securing the
19 cryptocurrency network. To earn a block reward, miners must perform millions of
20

1 simple, but time and energy-consuming computations to validate previous
2 cryptocurrency transactions. In return for mining, miners also earn transaction fees
3 associated with transactions they record and verify. These rewards create the
4 incentive for miners to maintain the operation and integrity of the cryptocurrency
5 network.

6 18. The monetary value of rewards from mining cryptocurrency is
7 substantial. In June 2018, the overall market capitalization of cryptocurrency
8 exceeded \$300 billion, with Bitcoin responsible for nearly half the value. In June
9 2011, one Bitcoin was worth pennies, but by the end of 2017, one Bitcoin was
10 worth nearly \$20,000.

11 19. The value of each cryptocurrency coin is based, in part, on a finite
12 number of total available coins. For example, over 17,000,000 out of 21,000,000
13 Bitcoins have been mined and are therefore currently in circulation, and
14 58,000,000 out of 84,000,000 Litecoins have been mined and are in circulation. As
15 the total number of remaining non-circulating coins decreases, the block reward for
16 mining also decreases. Meanwhile, generally, the difficulty of the calculations that
17 a miner must compute increases over time as more miners join the network. As a
18 result, mining equipment depreciates quickly and the total units of cryptocurrency
19
20

1 to be earned decreases. Miners can only remain profitable with low overhead and
2 cutting-edge technology.

3 20. Carlson understands this, admitting “it’s clear that the role of miners
4 is to be focused on deploying as much processing equipment as they can, while
5 focusing on improving the efficiency of the hardware, the facilities and the
6 operations team.”¹

7 21. In theory, anyone with access to the internet and suitable computer
8 hardware can participate in mining. However, for most people, it is cost prohibitive
9 and otherwise infeasible to host their own mining equipment because mining
10 requires expertise to operate and maintain the specialized hardware, the equipment
11 presents safety hazards, the process generates a large amount of heat because of the
12 computing power required, and electricity costs can render the operation
13 unprofitable.

14 22. Giga Watt represents that it solves these problems by: (a) offering low
15 cost mining that provides miners with dedicated hosting for safe, reliable and
16 profitable operations; (b) taking advantage of Giga Watt’s “vast experience;” and
17

18 ¹ <https://bitcoinmagazine.com/articles/giga-watt-ceo-we-desperately-need-balance->
19 [power-mining-space/](https://bitcoinmagazine.com/articles/giga-watt-ceo-we-desperately-need-balance-)
20

(c) taking advantage of its physical locations in Washington where electricity rates are “extraordinarily low.”

B. Giga Watt’s “Turnkey” Mining Services

23. The Giga Watt entities were formed in December 2016. Carlson formed Giga Watt, Inc. on December 15, 2016. GigaWatt Pte., Ltd. was then formed on December 28, 2016.

24. Through its websites, Giga Watt advertises that its standard, full-service mining solution includes the purchase and delivery of the mining equipment, its setup, and its operation/hosting at Giga Watt’s mining facilities in Washington. Giga Watt represents that it will mine various cryptocurrency, including Bitcoin, Litecoin, Dash, and Ethereum. Internally, Giga Watt concedes that its mining equipment has a 2.5-year life span. Giga Watt charges customers for the purchase, delivery and operation/hosting of the mining equipment at its facilities in Washington State.

25. The mining equipment sells for substantially less than what Defendants charge. For example, while Giga Watt charges \$800.00 for an Antminer D3 miner, the manufacturer charges only \$133.00.² However, Plaintiff

² <https://shop.bitmain.com/?lang=en> (last visited September 24, 2018)

1 and Class Members are willing to pay the additional amount because they are
2 purchasing Defendants' full-service, turnkey mining solution.

3 26. For ongoing hosting, Giga Watt assesses customers' daily charges,
4 which include electricity costs, maintenance, and facility rental. Payment for the
5 hosting services is deducted daily from the mining rewards generated by the
6 customer's equipment.

7 27. Giga Watt represents there is no hosting set up fee if consumers
8 purchase their mining equipment from Giga Watt.

9 28. According to Giga Watt, it has constructed its air-cooled "Giga Pod"
10 physical hosting structures throughout Washington State.

11 29. Giga Watt markets and promotes its turnkey mining services, its "vast
12 experience," its "proprietary groundbreaking" mining facilities, and its low-cost
13 Washington facilities where electricity is cheap and plentiful—among the lowest
14 rates in the world.

15 30. From May 19, 2017 through July 31, 2017, Giga Watt raised funds
16 through an Initial Coin Offering ("ICO"). Through the ICO, Defendants raised
17 millions of dollars by selling "tokens" "representing the right to use the Giga Watt
18 processing center's capacity, rent-free for 50 years." Giga Watt refers to these
19 tokens as "WTT Tokens," and the participating investors as "WTT Token
20

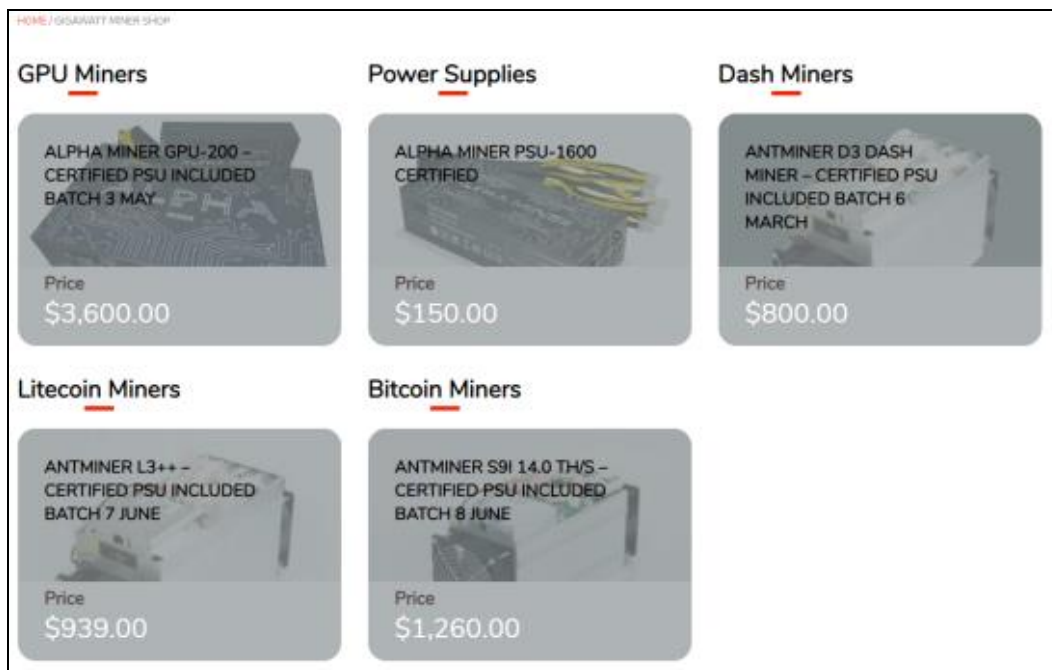
Holders.” In addition to providing participating investors with tokens, for every 100 tokens sold through the ICO, 15 tokens were issued and retained for Giga Watt’s “team members, partners and advisors.”³ Owning tokens is not required to purchase mining equipment from Giga Watt or to have them host it. Plaintiff is not a token holder. However, unbeknownst to Plaintiff and the Class Members, and not disclosed to them on Giga Watt’s websites or otherwise, WTT Token Holders (including Giga Watt’s team members, partners and advisors) received hosting priority over non-token holders.

31. Throughout its websites and in standardized purchase order confirmations and payment receipts, Giga Watt promises to deliver and host (*i.e.*, begin operating) mining equipment by a date certain.

32. On its websites (where the Class Members purchased the mining equipment), Giga Watt listed the type of mining equipment available for purchase, along with its initial cost and the time period by which the equipment would be

³ Each token (sold in the ICO for between \$1-\$1.20) represents 1 Watt’s worth of the processing center’s capacity. Plaintiff’s S9 miners each require 1453 Watts of power. Therefore, it would be necessary to purchase at least 1453 ICO tokens just to power one miner (rent-free).

operational. The following is an example of Gig Watt's offer to sell the Alpha Miner GPU-200 computer to be ready in "May":



33. Giga Watt also sent customers order confirmations and payment receipts that repeated the time of deployment. For example, Giga Watt provided Plaintiff the following order confirmation for one of his purchases, which stated a deployment date of “Late October.”

Subject: Your GigaWatt Miner Shop order from August 18, 2017 is complete

From: sales@gigawatt.sg
To: [REDACTED]
Date: Thursday, August 31, 2017, 8:05:43 AM EDT

Your order is complete

Hi there. Your recent order on GigaWatt Miner Shop has been completed. Your order details are shown below for your reference:

Order #2629

| Product | Quantity | Price |
|---|----------|----------------------------------|
| Antminer L3+ - PSU Included Batch 4 Late October | 1 | \$2,490.00 |
| Antminer S9 13.5 TH/s – PSU included Batch 4 Late October | 1 | \$1,700.00 |
| Subtotal: | | \$4,190.00 |
| Payment method: | | USD Bank Wire |
| Total: | | \$4,190.00 (includes \$0.00 Tax) |


Customer details

- Email address: [REDACTED]
- Phone: [REDACTED]

Billing address
Rafael Sofair
[REDACTED]

GigaWatt – The world's first full-service mining solution provider

34. The payment receipt for this order repeated the “Late October”
deployment date:

| | | | | | |
|---|--|---------------------------------|-------------------------------|---|--|
| GigaWatt Pte. Ltd. 1 Coleman Street, The Adelphi #08-07, Singapore 179803 payments@gigawatt.sg www.gigawatt.sg | | Gigawatt Invoice 2629 | |  | |
| INVOICE TO Refael Sofair [REDACTED] United States | | DATE 08/17/2017 | PLEASE PAY USD 0.00 | DUE DATE 08/25/2017 | |
| WTT OWNER Yes | | | | | |
| ACTIVITY | | QTY | RATE | AMOUNT | |
| anti3b4 Antminer L3+ - PSU Included Batch 4 Late October | | 1 | 2,490.00 | 2,490.00 | |
| ants9b4 Antminer S9 13.5 TH/s – PSU included Batch 4 Late October | | 1 | 1,700.00 | 1,700.00 | |
| ---PLEASE SEND \$USD ONLY--- | | PAYMENT | | 4,190.00 | |
| GIGAWATT PTE. LTD. Acc USD : [REDACTED] Telegraphic Transfers: Oversea-Chinese Banking Corporation Limited Singapore SWIFT BIC code: [REDACTED] Intermediary bank: JP Morgan Chase Bank, New York, USA SWIFT BIC code: CHASUS [REDACTED] OCBC Bank, 65 Chulia Street 01-00, OCBC Centre, Singapore 049513 Bank code: 7339 Branch code: 508/582 | | TOTAL DUE | | USD 0.00 | |
| THANK YOU. | | | | | |
| YOU MUST INCLUDE YOUR INVOICE # IN WIRE MEMO/ NOTES | | | | | |

35. The timing representations are false, misleading and likely to deceive Giga Watt customers. Giga Watt misrepresented and failed to disclose that Plaintiff and the Class Members’ mining equipment would not be deployed and operational in or around the time the equipment was to be delivered to Giga Watt. This

1 information is material because Plaintiff and the Class Members purchased the
2 mining equipment to use it for its ordinary, intended and reasonable purpose—to
3 mine cryptocurrency, and in return, receive financial rewards, in an incredibly
4 time-sensitive environment where the equipment can rapidly depreciate in a matter
5 of months because of technological advances, and the sheer number of calculations
6 determine the amount of the block reward.

7 36. Plaintiff and the Class Members purchased the mining equipment
8 reasonably believing the equipment would be deployed and begin mining as Giga
9 Watt promised.

10 37. Giga Watt did not permit customers to have their mining equipment
11 originally shipped to any location other than Giga Watt’s facilities in Washington.
12 Giga Watt required the purchased equipment be first hosted by Giga Watt before a
13 customer could request Giga Watt to send their equipment to another location.

14 38. Giga Watt has consistently advertised that its facilities are the “Best
15 Home for Computing Power” given the “Extraordinarily low effective electricity
16 cost,” “More than reasonable maintenance and rental fees,” and no cost setup fee
17 “if you buy your equipment from us.” According to Giga Watt, there are “No
18 hidden costs” with its hosting services.⁴

19 ⁴ <https://giga-watt.com/> (last visited September 24, 2018)

What we offer

| | | |
|--|---|---|
| <p>2.8¢</p> <p>per kW/h. Extraordinarily low effective electricity cost. <i>Compare electricity rates worldwide</i></p> | <p>4.7¢</p> <p>per kW/h and up. More than reasonable maintenance and rental fees.</p> | <p>\$0</p> <p>setup fee, if you buy your equipment from us No hidden costs.</p> |
| <p>24/7</p> <p>Maintenance of the equipment.</p> | | <p>50 MW</p> <p>infrastructure power capacity in operation, and this number keeps growing.</p> |
| <p>0 miners</p> <p>minimum facility entrance threshold.</p> | <p>5 years</p> <p>our track record of building and launching successful mining facilities.</p> | <p>100%</p> <p>operational transparency.</p> |

39. Similarly, Giga Watt induces customers to purchase mining equipment and utilize its hosting services by advertising that it is “able to offer such a low hosting fee” because of its “vast experience”:⁵

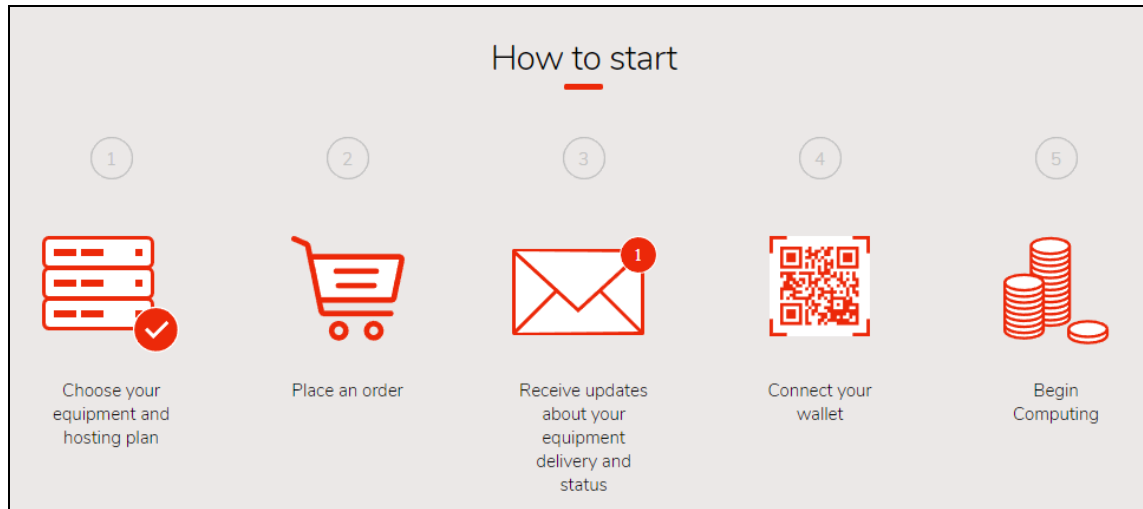
Our advantage

How are we able to offer such a low hosting fee? Thanks to our vast experience, we have minimized our cost in every aspect of hosting and computing operations.

| | |
|---|--|
| <p>⊖ Large monolithic facility</p> <ul style="list-style-type: none"> - Active cooling uses up to 33% of a facility's available power - Demands immense mechanical equipment - Cooling, backup power and switchgear systems increase project costs fivefold | <p>⊕ Compact high-density facilities</p> <ul style="list-style-type: none"> + Shortest air flow distance saves power and cools efficiently + Utilizes readily available electrical transformers and switchgear + Minimum costs and progressive revenue earning during construction |
|---|--|

⁵ *Id.*

40. According to Giga Watt, it's full-service, turnkey solution is a simple five-step process: (1) Choose your equipment and hosting plan; (2) Place an order; (3) Receive updates about your equipment delivery and status; (4) Connect your wallet; and (5) Begin Computing.⁶



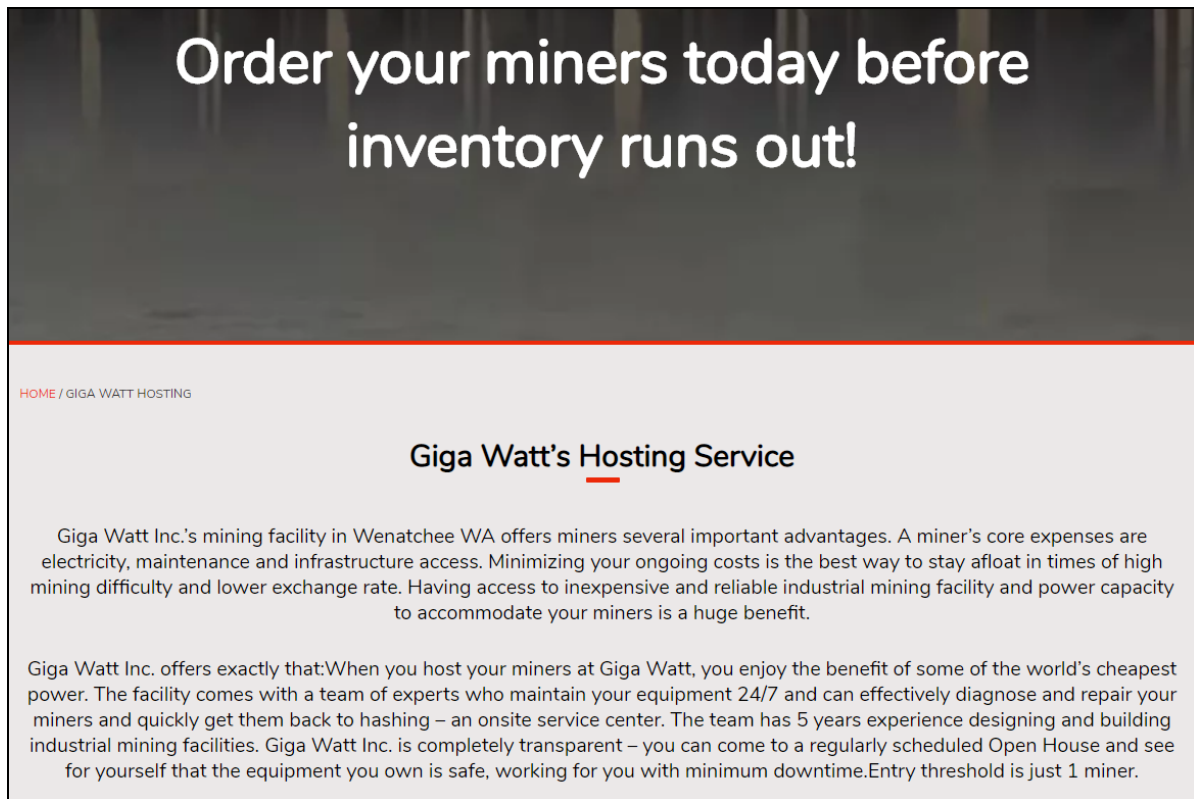
41. While simultaneously failing to disclose that it will not deploy the mining equipment being purchased, Giga Watt's marketing conveys a sense of urgency to induce potential customers to purchase mining equipment. Throughout its website Giga Watt advertises (even today) that customers should "Order your miners today before inventory runs out!"⁷

⁶ *Id.*

⁷ <https://www.gigawatt.sg/shop/> (last visited September 24, 2018);

<https://www.gigawatt.sg/giga-watt-hosting/> (last visited September 24, 2018)

42. Likewise, Giga Watt continues to advertise that customers should choose Giga Watt for hosting their mining equipment. On its website, Giga Watt explains the purported advantages of its hosting services, while failing to disclose that it will not deploy the mining equipment purchased by Plaintiff and the Class Members:⁸

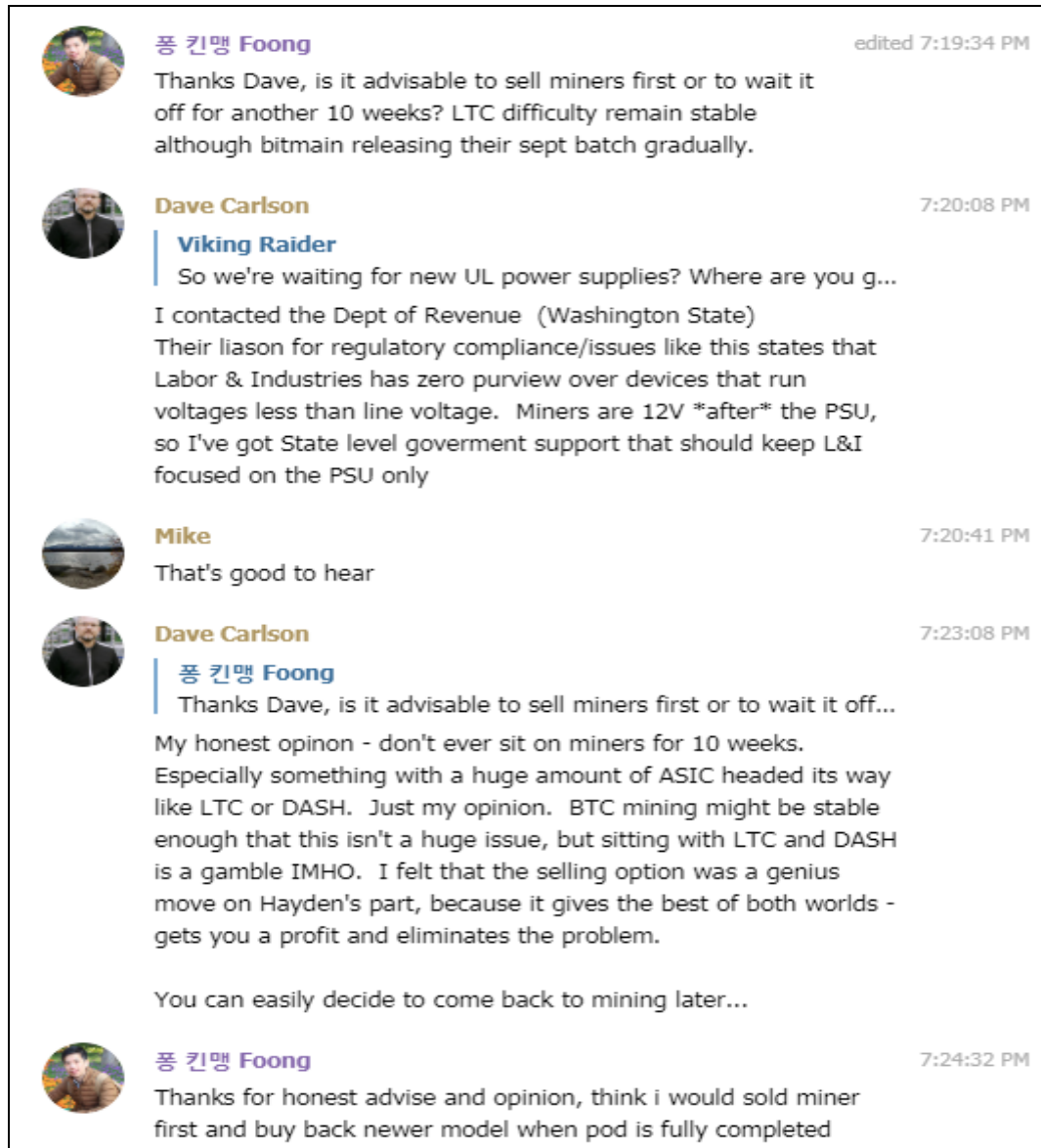


43. Contrary to its representations, Giga Watt fails to begin mining as promised. Instead, mining is delayed, sometimes indefinitely. Any delay results in

⁸ <https://www.gigawatt.sg/giga-watt-hosting/> (last visited September 24, 2018)

significant and immediate economic loss, which includes the loss of income from mining and the rapid devaluation of the mining equipment.

44. As Carlson admits, operational delay is expensive: “My honest opinion – don’t ever sit on miners for 10 weeks.”⁹



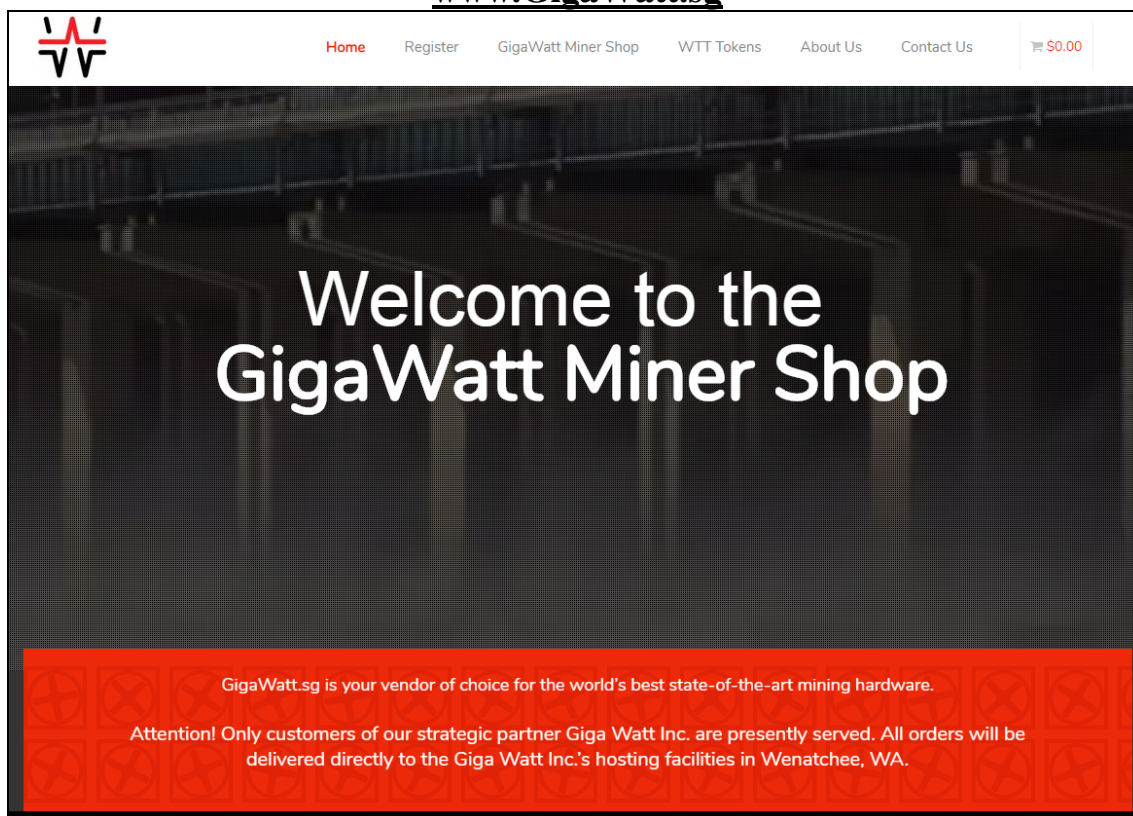
⁹ https://web.telegram.org/#/im?p=@wtt_token (message dated October 7, 2017)

1 45. In addition to the facts alleged above and throughout, Defendants
2 operated as agents, employees, representatives, partners, joint venturers, and/or
3 alter egos of the other Defendants.

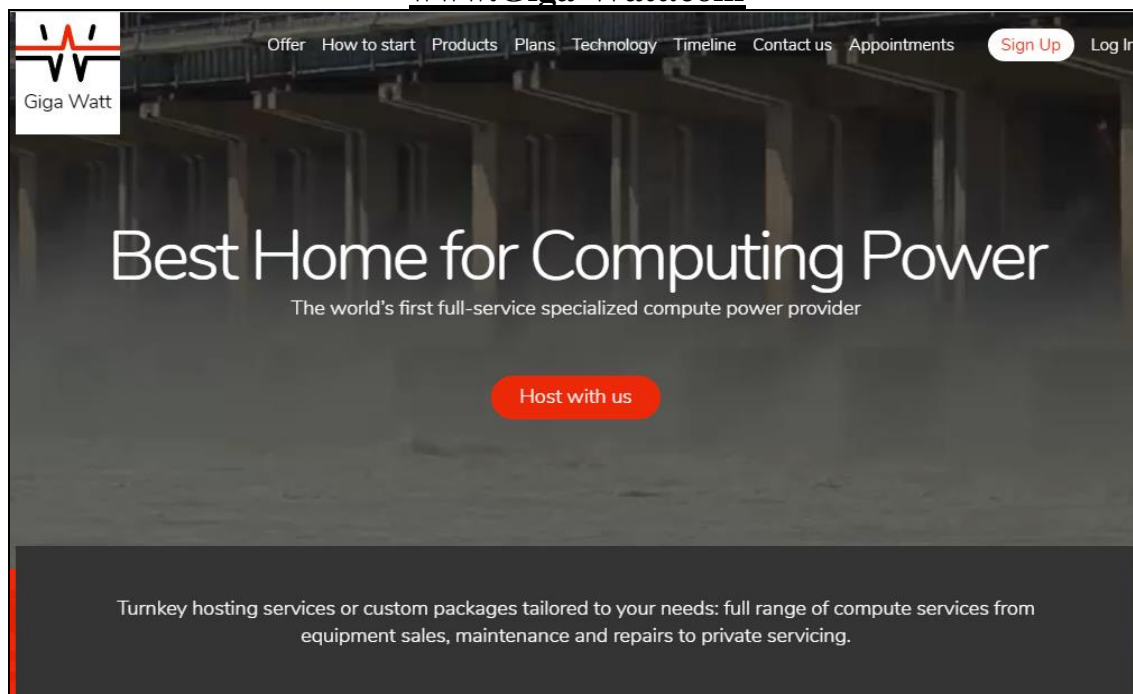
4 46. Giga Watt currently maintains at least three interrelated websites: one
5 for its mining equipment hosting facility in Washington (www.Giga-Watt.com);
6 one for its mining equipment sales facility in Singapore (www.GigaWatt.sg); and
7 one for its above-described “Initial Coin Offering” (wt.cryptonomos.com), which
8 was hosted on a hosting platform owned and operated by Cryptonomos Pte. Ltd.
9 The first two websites operate seamlessly as one website which, from the
10 customer’s point of view, are one and the same. All three websites appear to have
11 been built by or on the same website builder and share a common brand identity.
12 This includes using identical branding logos. The websites purportedly designed
13 and operated by Giga Watt, Inc. and GigaWatt Pte. Ltd. also market the services of
14 one another and electronically link to one another. The websites for Giga Watt,
15 Inc. and Cryptonomos were registered on the same date, November 10, 2016.
16 Cryptonomos maintains the same office address in Singapore as GigaWatt Pte. Ltd.

17 47. As of September 17, 2018, the websites for Giga Watt, Inc.
18 (www.Giga-Watt.com) and GigaWatt Pte. Ltd. (www.GigaWatt.sg) appear as
19 follows:
20

www.GigaWatt.sg



www.Giga-Watt.com



1 48. The Giga Watt entities work exclusively with one another in offering
2 the turnkey cryptocurrency mining services. Thus, GigaWatt Pte. Ltd. sells and
3 ships its mining equipment only to the Washington facilities for Giga Watt, Inc.'s
4 customers, and Giga Watt, Inc. hosts mining equipment sold and shipped by
5 GigaWatt Pte. Ltd.

6 49. At various times, Defendants established a "Giga Watt Project Team."
7 The Giga Watt Project Team is comprised of persons from Giga Watt, Inc. and
8 from GigaWatt Pte. Ltd. For instance, the Giga Watt Project Team included Giga
9 Watt, Inc.'s Carlson (CEO) and Adam West (VP Business Development Direct), as
10 well as GigaWatt Pte. Ltd.'s Michael Savuskan (CEO) and Hayden Gill (VP
11 Sales). In fact, Hayden Gill was the VP of Sales for both Giga Watt, Inc. and
12 GigaWatt Pte. Ltd.

13 **CLASS ACTION ALLEGATIONS**

14 50. Plaintiff brings this case as a class action pursuant to Rules 23(b)(2),
15 (b)(3), and (c)(4) of the Federal Rules of Civil Procedure. The proposed Class
16 consists of:

17 All persons within the United States who purchased mining services from
18 Giga Watt but mining did not start at the time represented at the time of
19 purchase.
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1 51. In the alternative, Plaintiff brings this action on behalf of himself and
2 all other similarly situated New York consumers pursuant to Rules 23(b)(2), (b)(3),
3 and (c)(4) of the Federal Rules of Civil Procedure and seeks certification of the
4 following New York Class:

5 All New York residents who purchased mining services from Giga
6 Watt but mining did not start at the time represented at the time of
7 purchase.

8 52. The Class excludes Giga Watt's officers and directors, current or
9 former employees, as well as any judge, justice or judicial officer presiding over
10 this matter and members of their immediate families and judicial staff.

11 53. *Numerosity*. The members of the Class are so numerous that their
12 individual joinder is impracticable. Plaintiff is informed and believes, and on that
13 basis alleges, that the proposed Class contains thousands of members. While the
14 precise number of Class members is unknown to Plaintiff, it is known to
15 Defendants.

16 54. *Existence and Predominance of Common Questions of Law and*
17 *Fact*. Common questions of law and fact exist as to all Class Members and
18 predominate over any questions affecting only individual Class members. All Class
19 Members have been subject to the same conduct and their claims arise from the
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1 same legal claims. The common legal and factual questions include, but are not
2 limited to, the following:

- 3 (a) whether Giga Watt's conduct violated RICO;
- 4 (b) whether Giga Watt engaged in unlawful or unfair business practices;
- 5 (c) whether Giga Watt breached its contract with Plaintiff and Class
6 Members;
- 7 (d) whether Giga Watt's conduct constitutes a breach of the implied
8 covenant of good faith and fair dealing;
- 9 (e) whether the Plaintiff and the Class are entitled to injunctive relief;
- 10 (f) whether the Plaintiff and the Class are entitled to declaratory relief;
- 11 (g) whether Giga Watt has been unjustly enriched by its improper course
12 of action; and
- 13 (h) whether Plaintiff and Class Members are entitled to equitable relief,
14 and the proper measure of that equitable relief.

15 55. **Typicality.** Plaintiff's claims are typical of the claims of the Class
16 Members in that Plaintiff is a member of the Class that he seeks to represent.

17 56. **Adequacy of Representation.** Plaintiff will fairly and adequately
18 protect the interests of the Class Members. Plaintiff has retained counsel
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1 experienced in the prosecution of this type of class action litigation. Plaintiff has
2 no adverse or antagonistic interests to those of the Class.

3 57. ***Superiority.*** A class action is superior to all other available means for
4 the fair and efficient adjudication of this controversy. Individualized litigation
5 would create the danger of inconsistent or contradictory judgments arising from the
6 same set of facts. Individualized litigation would also increase the delay and
7 expense to all parties and the court system from the issues raised by this action.
8 The burden and expense that would be entailed by individual litigation makes it
9 impracticable or impossible for Class members to prosecute their claims
10 individually. Further, the adjudication of this action presents no unusual
11 management difficulties.

12 58. Unless a class is certified, Giga Watt will retain monies received as a
13 result of its improper conduct. Unless a classwide injunction is issued, Giga Watt
14 will continue to commit the violations alleged. Giga Watt has acted or refused to
15 act on grounds that are generally applicable to the Class so that injunctive and
16 declaratory relief is appropriate to the Class as a whole.

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COUNT I

Violation of the Racketeer Influenced and Corrupt Organizations Act,

18 U.S.C. § 1962(c)-(d)

(Against All Defendants)

59. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

60. Giga Watt conducts its legitimate and illegitimate business through affiliates and subsidiaries, each of which is a separate legal entity. At all relevant times, the Defendants have been “persons” under 18 U.S.C. § 1961(3) because they are capable of holding, and do hold, “a legal or beneficial interest in property.”

61. It is “unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity.” 18 U.S.C. § 1962(c).

62. It is also unlawful for “any person to conspire to violate” Section 1962(c), among other provisions. *See* 18 U.S.C. § 1962(d).

63. Defendants have aggressively sought to increase their sales of the cryptocurrency mining services through a fraudulent scheme designed to bolster

1 their revenues, augment profits, increase their market share of the hosted
2 cryptocurrency mining market, and extract revenues of millions of dollars from
3 Plaintiff and the Class Members. Finding it impossible to achieve their ambitious
4 goals lawfully, however, Defendants resorted to cheating through their fraudulent
5 scheme and conspiracy. The illegal scheme was hatched and executed with
6 complicity by Defendants. Defendants, along with other entities and individuals,
7 were employed by or associated with, and conducted or participated in the affairs
8 of, a RICO enterprise (defined below and referred to as the “Giga Watt RICO
9 Enterprise”). The Giga Watt RICO Enterprise’s purpose was to deceive Plaintiff,
10 Class Members and the public into believing Giga Watt’s mining services included
11 mining equipment that would be delivered from overseas, where it would be
12 promptly deployed to mine various cryptocurrencies in Washington State, which
13 location Defendants ostensibly selected to offer a low cost, turnkey hosting
14 solution that promised to increase revenues from Defendants’ mining services. As
15 a direct result of their fraudulent scheme and common course of conduct,
16 Defendants were able to extract revenues of millions of dollars from Plaintiff and
17 the Class Members. As explained in detail below, the Defendants’ misconduct
18 violated Sections 1962(c) and (d).

1 **Description of the Giga Watt RICO Enterprise**

2 64. A RICO enterprise consists of “any individual, partnership,
3 corporation, association, or other legal entity, and any union or group of
4 individuals associated in fact although not a legal entity.” 18 U.S.C. § 1961(4). An
5 association-in-fact enterprise requires three structural features: (1) a purpose; (2)
6 relationships among those associated with the enterprise; and (3) longevity
7 sufficient to permit those associates to pursue the enterprise’s purpose.

8 65. At all relevant times, Defendants, along with other individuals and
9 entities, including unknown third parties involved in the marketing and sale of the
10 cryptocurrency mining equipment and hosting services, operated an association-in-
11 fact enterprise. This association-in-fact enterprise was formed for the purpose of
12 selling the cryptocurrency mining equipment throughout the U.S., and through
13 which they conducted a pattern of racketeering activity under 18 U.S.C. § 1961(4).

14 66. Alternatively, each of the Defendants constitutes a single legal entity
15 “enterprise” within the meaning of 18 U.S.C. § 1961(4), through which the
16 Defendants conducted a pattern of racketeering activity. The Defendants’ separate
17 legal statuses facilitated the fraudulent scheme and provided a hoped-for shield
18 from liability for the Defendants and their co-conspirators.

67. In furtherance of the scheme, the Defendants each affirmatively misrepresented or concealed the truth about the availability of Giga Watt's mining equipment, Giga Watt's hosting capabilities, and their intentions to Plaintiff, the Class Members, and the general public. Specifically, Defendants claimed the mining equipment would be operational within the promised timeframe and subsequently hosted through Giga Watt's low-cost facilities with access to cheap and plentiful electricity. In truth, Giga Watt did not have the equipment, capacity, ability, or intention to set up and host the mining equipment purchased by Plaintiff and the Class Members.

The Giga Watt RICO Enterprise Sought to Fraudulently Increase Defendants' Profits and Revenues

68. Each Defendant benefited financially from the Giga Watt RICO Enterprise. Defendants were able to sell mining equipment and services.

69. GigaWatt Pte. Ltd., Giga Watt, Inc., and Carlson profited through the marketing and sale of the turnkey mining solution to Plaintiff and the Class Members. GigaWatt Pte. Ltd., Giga Watt, Inc., and Carlson did so by representing that the mining equipment purchased from Giga Watt would be promptly deployed and hosted using the turnkey, full-service, low-cost operations of Giga Watt's facilities in Washington, where customers would purportedly benefit from extraordinarily low electricity costs, low hosting fees, 24/7 maintenance of the

1 mining equipment, a growing number of proprietary mining facilities, and Giga
2 Watt's track record of building and launching successful mining facilities. And
3 because the Defendants represented the mining equipment would be hosted at the
4 low-cost facilities, they increased their profits by selling more mining equipment,
5 obtaining mining rewards for themselves, and charging Plaintiff and the Class
6 Members to pay for Defendants' operating expenses (e.g., ongoing construction,
7 overhead, and electricity expenses).

8 70. In 2012, Carlson founded MegaBigPower with the stated goal of
9 building the world's first megawatt-scale Bitcoin mining center. MegaBigPower,
10 which offered and sold Bitcoin mining services to the general public, became one
11 of the largest single-operator mines in the world. Carlson sold MegaBigPower's
12 assets to Giga Watt, Inc., which as of May 2017, had completed three mining
13 facilities designed and built under the supervision of the original MegaBigPower
14 team. Carlson has supervised, and directed the marketing and sale of the mining
15 equipment and hosting services offered and sold by Giga Watt, Inc. and GigaWatt
16 Pte. Ltd., and otherwise participated in the operation and management of the Giga
17 Watt RICO Enterprise itself. Including by virtue of his substantial, personal
18 participation in responding to customers on Giga Watt's Telegram online
19 messaging service, Carlson knew about the beliefs and expectations of the Class
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1 Members relating to timing of the deployment and hosting of their mining
2 equipment.

3 71. At all relevant times, the Giga Watt RICO Enterprise: (a) had an
4 existence separate and distinct from each Defendant; (b) was separate and distinct
5 from the pattern of racketeering in which the Defendants engaged; and (c) was an
6 ongoing and continuing organization consisting of legal entities, including the
7 Defendants, along with other individuals and entities, including unknown third
8 parties that operated an association-in-fact enterprise, which was formed for the
9 purpose of ensuring Giga Watt's mining equipment and hosting services were sold
10 through a fraudulent marketing campaign that promised a full-service, turnkey
11 mining solution at the expense of Plaintiff and the Class Members who believed
12 they were buying into Defendants' full range of mining-related services, which
13 included both equipment sales and hosting.

14 72. Defendants and their co-conspirators, through the illegal Giga Watt
15 RICO Enterprise, engaged in a pattern of racketeering activity, which involved a
16 fraudulent scheme to increase revenue for Defendants and the other entities and
17 individuals associated-in-fact with the Enterprise's activities through the illegal
18 scheme to sell a full range of mining-related services that included both equipment
19 sales and hosting, without providing hosting services.

1 73. The activities engaged in by the Giga Watt RICO Enterprise affected
2 interstate and foreign commerce because it involved commercial activities across
3 state boundaries, such as the marketing, promotion, advertisement, distribution,
4 and sale of mining equipment, repair and hosting services throughout the country,
5 and the receipt of monies from the sale of the same.

6 74. Within the Giga Watt RICO Enterprise, there was a common
7 communication network by which co-conspirators shared information on a regular
8 basis. The Giga Watt RICO Enterprise used this common communication network
9 for purposes of marketing, pricing, and engaging in negotiations regarding the
10 mining equipment and related deployment and hosting services, including their
11 pricing, and for furtherance of the Giga Watt RICO Scheme.

12 75. Each participant in the Giga Watt RICO Enterprise had systematic
13 linkages to each other through corporate ties, contractual relationships, financial
14 ties, and a continuing coordination of activities. Through the Giga Watt RICO
15 Enterprise, the Defendants functioned as a single, continuing unit with the purpose
16 of furthering the Giga Watt RICO Scheme.

17 76. Defendants participated in the operation and management of the Giga
18 Watt RICO Enterprise by directing its affairs, as described herein. While
19 Defendants participated in, and are members of the Enterprise, they have a separate
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1 existence from the Enterprise, including distinct legal statuses, different offices and
2 roles, bank accounts, officers, directors, employees, individual personhood,
3 reporting requirements, and financial statements.

4 77. Defendants exerted substantial control over the Giga Watt RICO
5 Enterprise, and participated in the affairs of the Enterprise by: (a) misrepresenting
6 and/or concealing the existence, status or capabilities of Giga Watt's
7 cryptocurrency mining facilities; (b) misrepresenting and/or concealing the true
8 nature of the relationship and agreements between the members of the Enterprise
9 and its effects on the pricing of mining equipment and hosting-related services; (c)
10 otherwise misrepresenting and/or concealing the fraudulent nature of the turnkey,
11 full-service mining operations being marketed and sold; (d) collecting revenues
12 and/or profits from the sale of mining equipment and hosting-related services; and
13 (e) ensuring the other Defendants and unnamed coconspirators complied with and
14 concealed the fraudulent scheme.

15 78. Without each Defendant's willing participation, the Giga Watt RICO
16 Scheme and common course of conduct would not have been successful.

17 79. Defendants directed and controlled the ongoing organization
18 necessary to implement the scheme at meetings and through communications of
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1 which Plaintiff cannot fully know at present, because such information lies in the
2 hands of the Defendants and others.

3 **Predicate Acts: Mail and Wire Fraud**

4 80. To carry out, or attempt to carry out, the scheme to defraud, the
5 Defendants, each of whom is a person associated-in-fact with the Giga Watt RICO
6 Enterprise, did knowingly conduct or participate, directly or indirectly, in the
7 affairs of the Giga Watt RICO Enterprise through a pattern of racketeering activity
8 within the meaning of 18 U.S.C. §§ 1961(1), 1961(5) and 1962(c), and employed
9 the use of the mail and wire facilities, in violation of 18 U.S.C. § 1341 (mail fraud)
10 and § 1343 (wire fraud).

11 81. Specifically, Defendants have committed, conspired to commit, or
12 aided and abetted in the commission of, at least two predicate acts of racketeering
13 activity (i.e., violations of 18 U.S.C. §§ 1341 and 1343), within the past ten years.

14 82. The multiple acts of racketeering activity which Defendants
15 committed, or aided or abetted in the commission of, were related to each other,
16 posed a threat of continued racketeering activity, and therefore constitute a “pattern
17 of racketeering activity.” The racketeering activity was made possible by
18 Defendants’ regular use of the facilities, services, distribution channels, and
19 employees of the Giga Watt RICO Enterprise. Defendants participated in the
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1 scheme to defraud by using interstate emails and the Internet to transmit marketing
2 and advertising, mailings and wires in interstate or foreign commerce.

3 83. Defendants used, directed the use of, and/or caused to be used,
4 thousands of interstate email, mail and wire communications in service of their
5 scheme through virtually uniform misrepresentations, concealments, and material
6 omissions.

7 84. In devising and executing the illegal scheme, Defendants devised and
8 knowingly carried out a material scheme and/or artifice to defraud Plaintiff and the
9 Class Members or to obtain money from Plaintiff and the Class Members by means
10 of materially false or fraudulent pretenses, representations, promises, or omissions
11 of material facts. For the purpose of executing the illegal scheme, Defendants
12 committed these racketeering acts, which number in the thousands, intentionally
13 and knowingly with the specific intent to advance the illegal scheme.

14 85. Defendants' predicate acts of racketeering (18 U.S.C. § 1961(1))
15 include, but are not limited to:

- 16 (a) Mail Fraud: Defendants violated 18 U.S.C. § 1341 by sending or
17 receiving, or by causing to be sent and/or received, materials via the
18 Internet, email, U.S. mail or commercial interstate carriers for the
19 purpose of executing the unlawful scheme to market, price, and sell
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1 mining equipment and hosting services by means of false pretenses,
2 misrepresentations, promises, and omissions.

3 (b) Wire Fraud: Defendants violated 18 U.S.C. § 1343 by transmitting
4 and/or receiving, or by causing to be transmitted and/or received,
5 materials by interstate wire (i.e., email and use of the Internet for
6 advertising purposes) for the purpose of executing the unlawful
7 scheme to market, price, and sell mining equipment and hosting
8 services and defraud and obtain money on false pretenses,
9 misrepresentations, promises, and omissions.

10 86. Defendants' use of the mails and wires include, but are not limited to:

11 (a) the transmission of marketing or other materials about the availability for
12 purchase of cryptocurrency mining equipment; (b) electronic communications
13 transmitting cryptocurrency mining equipment purchase order confirmations and
14 payment receipts to Plaintiff and the Class Members; (c) the transmission of
15 marketing or other materials about Giga Watt's hosting solutions, hosting
16 availability, and hosting expertise; (d) the physical transmission and/or distribution
17 of Plaintiff and the Class Members' mining equipment through the mails; (e) the
18 use of the Internet, including a customer-only portal on www.Giga-Watt.com to
19 transmit to Plaintiff and the Class Members the purported hosting status of their
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1 mining equipment; and (f) the use of the mails or wires to bill for or collect
2 revenues and profits from the sale of mining equipment, mining equipment repairs,
3 rental fees, and hosting charges.

4 87. Defendants also communicated by interstate mail, and by interstate
5 electronic mail with various other affiliates, offices, divisions, dealerships, partners
6 and other third-party entities in furtherance of the scheme.

7 88. The mail and wire transmissions described herein were made in
8 furtherance of Defendants' scheme and common course of conduct designed to sell
9 cryptocurrency mining services, and to fraudulently extract millions of dollars of
10 revenue from Plaintiff and the Class Members.

11 89. Many of the precise dates of the fraudulent uses of electronic
12 communications, U.S. mail, and interstate wire facilities have been deliberately
13 hidden, and cannot be alleged without access to Defendants' books and records.
14 However, Plaintiff can and has described the types of predicate acts of mail and/or
15 wire fraud, and the occasions on which the predicate acts would have occurred.
16 They include thousands of communications to perpetuate and maintain the scheme,
17 including the things and documents described above.

18 90. Defendants have not undertaken the practices described herein in
19 isolation, but as part of a common scheme and conspiracy. In violation of 18
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1 U.S.C. § 1962(d), Defendants conspired to violate 18 U.S.C. § 1962(c), as
2 described herein. Various other persons, firms, and corporations, including third-
3 party entities and individuals not named as defendants in this Complaint, have
4 participated as co-conspirators with Defendants in these offenses and have
5 performed acts in furtherance of the conspiracy to increase or maintain revenues,
6 increase market share, and/or minimize losses for Defendants and their unnamed
7 co-conspirators throughout the illegal scheme and common course of conduct.

8 91. Defendants aided and abetted others in the violations of the above
9 laws.

10 92. To achieve their common goals, Defendants misrepresented and hid
11 from Plaintiff, the Class Members, and the general public the true hosting
12 capabilities of Giga Watt, and the true status of deploying the mining equipment
13 purchased by Plaintiff and the Class Members.

14 93. Defendants and each member of the conspiracy, with knowledge and
15 intent, agreed to the overall objectives of the conspiracy and participated in the
16 common course of conduct. Indeed, for the conspiracy to succeed, each of the
17 Defendants and their co-conspirators had to agree to conceal the status and
18 capabilities of their cryptocurrency mining operations.

1 94. Defendants knew, and intended that, Plaintiff and the Class Members
2 would rely on the material misrepresentations and omissions made by them and
3 incur damages as a result, including charges for mining equipment, lost mining
4 profits, and rental, hosting and maintenance fees that they would not have
5 otherwise incurred. Indeed, in the absence of the Defendants' violations of 18
6 U.S.C. § 1962(c) and (d), Plaintiff and the Class Members would not have
7 purchased the cryptocurrency mining equipment, and the Giga Watt RICO scheme
8 could not succeed.

9 95. As described herein, Defendants engaged in a pattern of related and
10 continuous predicate acts for years. The predicate acts constituted a variety of
11 unlawful activities, each conducted with the common purpose of obtaining
12 significant monies and revenues from Plaintiff and the Class Members based on
13 their misrepresentations and omissions, while providing mining equipment that
14 would not be deployed and hosted as promised. The predicate acts also had the
15 same or similar results, participants, victims, and methods of commission. The
16 predicate acts were related and not isolated events.

17 96. During Defendants' sale of cryptocurrency mining equipment and
18 hosting services, Giga Watt's true ability to host the equipment as promised was
19 revealed to each of the Defendants. Nevertheless, the Defendants continued to
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1 disseminate misrepresentations regarding the full-service, turnkey cryptocurrency
2 mining equipment and hosting package available for purchase, in furtherance of
3 the scheme.

4 97. By reason of, and as a result of the conduct of the Defendants, and in
5 particular, their pattern of racketeering activity, Plaintiff and the Class Members
6 have been injured in multiple ways, including but not limited to paying for mining
7 equipment and hosting services, and lost mining revenue.

8 98. Defendants' violations of 18 U.S.C. § 1962(c) and (d) have directly
9 and proximately caused injuries and damages to Plaintiff and the Class Members
10 who are entitled to bring this action for three times their actual damages, as well as
11 injunctive/equitable relief, costs, and reasonable attorneys' fees pursuant to 18
12 U.S.C. § 1964(c).

13 **COUNT II**

14 ***Violation of the Washington Consumer Protection Act,***

15 ***RCW 19.86.010, et seq.***

16 **(Against All Defendants)**

17 99. Plaintiff incorporates by reference and realleges each and every
18 allegation contained above, as though fully set forth herein.

19 100. The Washington Consumer Protection Act (the "WCPA"), Section
20 19.86.020, provides that, "Unfair methods of competition and unfair or deceptive

1 acts or practices in the conduct of any trade or commerce are hereby declared
2 unlawful.”

3 101. Giga Watt’s unlawful acts alleged herein were substantially made and
4 conducted from the State of Washington, Giga Watt, Inc.’s principal place of
5 business.

6 102. As alleged herein and above, Giga Watt has engaged in unlawful,
7 unfair and deceptive acts or practices through its conduct and representations
8 directed at Plaintiff and the Class Members about when their mining equipment
9 would be deployed and begin mining. These representations were made by Giga
10 Watt on its Giga Watt websites, in connection with the marketing and sale of
11 mining equipment on Giga Watt’s websites, and in the purchase order
12 confirmations and payment receipts provided to Plaintiff and the other the Class
13 Members.

14 103. The deployment representations made to Plaintiff and the Class were
15 false, misleading and had the capacity to deceive a substantial portion of the public
16 because the mining equipment was not deployed in or around the time period
17 represented. Giga Watt omitted to disclose that the mining equipment would not be
18 deployed and become operational, though this fact was known to it. The
19 deployment timing representations made to Plaintiff and the Class Members were
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1 false and misleading because Giga Watt failed to deploy the mining equipment in
2 or around the time period it represented.

3 104. Giga Watt's unlawful acts or practices occurred in the conduct of
4 trade or commerce (i.e., in connection with the marketing and sale of the mining
5 equipment to Plaintiff and the Class Members).

6 105. Giga Watt's unfair and deceptive acts and practices concerning the
7 marketing, sale and distribution of the mining equipment had the capacity to
8 deceive a substantial portion of the public into believing that the mining equipment
9 would be deployed and begin mining in or around the time it was to be delivered to
10 Giga Watt's facilities.

11 106. Giga Watt's unfair and deceptive acts and practices concerning the
12 marketing, sale and distribution of the mining equipment adversely affected the
13 public interest, including because Plaintiff and other members of the public
14 engaged in consumer transactions and have been injured in the same fashion
15 through the acts committed in the course of Giga Watt's business, as alleged.

16 107. Plaintiff and the Class Members have been injured as a direct and
17 proximate result of Giga Watt's violations of the RCW 19.86.020.

1 108. Plaintiff and the Class Members have suffered and incurred actual
2 damages as a direct and proximate result of Giga Watt's violations of the RCW
3 19.86.020.

4 109. Plaintiff and the Class Members are "persons" as defined in RCW
5 19.86.010.

6 110. Plaintiff and the Class Members are entitled to pursue a claim against
7 Giga Watt pursuant to RCW 19.86.090 and/or RCW 19.86.093 to remedy Giga
8 Watt's violations of RCW 19.86.020.

9 111. Plaintiff and the Class Members seek damages, statutory damages,
10 exemplary damages, an injunction, restitution, disgorgement, attorney's fees and
11 costs, and all other appropriate legal and equitable relief and remedies for Giga
12 Watt's violations of the WCPA concerning its unlawful marketing and sale of the
13 mining equipment.

14 **COUNT III**

15 ***Violation of the New York General Business Law §§ 349, et seq.***

16 **(Against All Defendants)**

17 112. Plaintiff incorporates by reference and realleges each and every
18 allegation contained above, as though fully set forth herein.

19 113. Plaintiff and the other Members of the New York Class are persons
20 within the meaning of New York General Business Law ("GBL") Section 349(h).

1 Giga Watt engaged in business, trade or commerce within the meaning of GBL §
2 349(a).

3 114. GBL Section 349(a) declares unlawful “[d]eceptive acts or practices
4 in the conduct of any business, trade or commerce or in the furnishing of any
5 service in [New York State].”

6 115. As described herein, Giga Watt engaged in consumer-oriented
7 conduct that was misleading and directed at the consuming public.

8 116. As a result of the deceptive and misleading promises and omissions
9 made by Giga Watt throughout the marketing and sale of its mining equipment and
10 mining services, as described above, Giga Watt has deceived Plaintiff and the
11 Class Members.

12 117. Plaintiff and the Class Members have been injured by Giga Watt’s
13 deceptive acts and practices in that they purchased mining equipment from Giga
14 Watt reasonably believing Giga Watt would deploy the equipment and provide the
15 promised mining hosting services in or around the time the mining equipment was
16 to be purportedly delivered to Giga Watt.

17 118. Giga Watt’s deceptive conduct occurred in the course of engaging in
18 trade or commerce.

1 119. Giga Watt willfully, with disregard and/or maliciously violated GBL
2 Section 349.

3 120. Plaintiff and the Class Members have purchased mining equipment
4 and suffered actual damages, proximately caused by Giga Watt's unfair and
5 deceptive acts and practices.

6 121. The damages suffered by Plaintiff and the Class Members were
7 directly and proximately caused by the materially misleading acts and practices of
8 Giga Watt, as more fully described herein.

9 122. Plaintiff and the Class Members make claims for damages, attorneys'
10 fees and costs pursuant to GBL Section 349(h). Additionally, pursuant to GBL
11 Section 349(h), Plaintiff and the Class Members seek injunctive relief to stop the
12 ongoing deceptive conduct.

13 **COUNT IV**

14 ***Common Law Fraud***

15 **(Against All Defendants)**

16 123. Plaintiff incorporates by reference and realleges each and every
17 allegation contained above, as though fully set forth herein.

18 124. Giga Watt represented to Plaintiff and the Class Members the timing
19 when their mining equipment would be deployed and begin mining. These
20 representations were made by Giga Watt through its statements and conduct as

1 described herein, including on Giga Watt websites prior to the sale of the mining
2 equipment, and in the purchase order confirmations and payment receipts provided
3 to Plaintiff and the Class Members.

4 125. The deployment representations made to Plaintiff and the Class
5 Members were false and misleading because the mining equipment was not
6 deployed in or around the time period represented. Defendant omitted to disclose
7 that the mining equipment would not be deployed and become operational in or
8 around the time period it represented.

9 126. Giga Watt knew its representations concerning the deployment timing
10 made to Plaintiff and the Class Members were false and untrue at the time the
11 representations were made, or recklessly made the statements with no belief in the
12 truth of the statements, and concealed the actual deployment timing, knowing
13 concealment of the actual deployment timing was material to the circumstances
14 and likely to deceive, and would have a material effect on the transaction. Giga
15 Watt knew the facts concealed were neither known nor readily accessible to
16 Plaintiff and the Class Members.

17 127. Giga Watt made the representations and omissions concerning the
18 deployment timing with the intent to deceive Plaintiff and the Class Members and
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1 to induce Plaintiff and the Class Members to purchase the mining equipment
2 and/or to pay a price higher than they would have otherwise paid.

3 128. Plaintiff and the Class Members believed Giga Watt's representations
4 as to the timing of the deployment of the mining equipment were true and
5 materially complete, and did not know of the falsity of the representations and
6 were unaware of the facts omitted. In reliance on Giga Watt's representations, in
7 belief the representations were materially complete, and induced by the omissions
8 of fact, Plaintiff and the Class Members purchased the mining equipment and have
9 been damaged in an amount to be determined at trial.

10 **COUNT V**

11 ***Negligent Misrepresentation***

12 **(Against All Defendants)**

13 129. Plaintiff incorporates by reference and realleges each and every
14 allegation contained above, as though fully set forth herein.

15 130. Giga Watt represented to Plaintiff and the Class Members the timing
16 when their mining equipment would be deployed and begin mining. These
17 representations were made by Giga Watt through its statements and conduct as
18 described herein, including on Giga Watt websites prior to the sale of the mining
19 equipment, and in the purchase order confirmations and payment receipts provided
20 to Plaintiff and the Class Members.

1 131. The deployment representations made to Plaintiff and the Class
2 Members were false and misleading because the mining equipment was not
3 deployed in or around the time period represented. Giga Watt omitted to disclose
4 that the mining equipment would not be deployed and become operational in or
5 around the time period it represented.

6 132. Giga Watt represented that the facts about the deployment timing of
7 the mining equipment were true when it had no reasonable grounds for believing
8 the representations to be true.

9 133. Giga Watt made the representations and omissions concerning the
10 deployment timing with the intent to induce Plaintiff and the Class Members to
11 rely on such representations and omissions, and to purchase the mining equipment.

12 134. Plaintiff and the Class Members justifiably believed Giga Watt's
13 representations as to the timing of the deployment of the mining equipment were
14 true and materially complete, and did not know of the falsity of the representations
15 and were unaware of the facts omitted. In reliance on Giga Watt's representations,
16 in belief the representations were materially complete, and induced by the
17 omissions of fact, Plaintiff and the Class Members purchased the mining
18 equipment and have been damaged in an amount to be determined at trial.

COUNT VI

Breach of Contract

(Against Giga Watt, Inc. and GigaWatt Pte. Ltd.)

135. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

136. Plaintiff and each Class Member formed a contract with Giga Watt, Inc. and GigaWatt Pte. Ltd. The terms of that contract include the promises and affirmations of fact made by Defendants in their marketing and sales materials as described above. These sales and marketing materials constitute express and implied warranties, became part of the basis of the bargain, and are part of a standardized contract between Plaintiff and the Class Members on the one hand, and Giga Watt, Inc. and GigaWatt Pte. Ltd. on the other.

137. Giga Watt, Inc. and GigaWatt Pte. Ltd. breached the terms of their standardized marketing and sales materials with Plaintiff and the Class Members by promising to deliver and host mining equipment by a date certain, but then failing to deliver and host the mining equipment by that time. On their retail websites and in the mining equipment purchase order confirmations and payment receipts provided to Plaintiff and the Class Members, Giga Watt, Inc. and GigaWatt Pte. Ltd. stated a time by which the mining equipment would be delivered and hosted (i.e., become operational). Defendants breached this material

1 provision because the mining services did not begin as promised or in substantial
2 conformance with the time period warranted by Defendants.

3 138. All conditions precedent to the Giga Watt, Inc.'s and GigaWatt Pte.
4 Ltd.'s liability under this standardized contract, including notice, have been
5 performed by Plaintiff and the Class Members.

6 139. As a result of Giga Watt, Inc.'s and GigaWatt Pte. Ltd.'s breaches of their
7 contracts, Plaintiff and the Class Members have been damaged in an amount to be
8 determined at trial.

9 **COUNT VII**

10 ***Breach of the Implied Covenant of Good Faith and Fair Dealing***

11 **(Against Giga Watt, Inc. and GigaWatt Pte. Ltd.)**

12 140. Plaintiff incorporates by reference and realleges each and every
13 allegation contained above, as though fully set forth herein.

14 141. The implied covenant of good faith and fair dealing is part of every
15 contract.

16 142. The duty to act in good faith limits one party's ability to act in a
17 manner that does not do anything that will have the effect of impairing, destroying,
18 or injuring the rights of the other party to receive the benefits and reasonable
19 expectations of their agreement.
20

1 143. Good faith and fair dealing, in connection with the discharge of
2 performance and other duties according to contractual terms, means preserving the
3 spirit – not merely the letter – of the bargain. Put differently, the parties to a
4 contract are mutually obligated to comply with the substance of their contract in
5 addition to its form.

6 144. Plaintiff and each Class Member formed a contract with Giga Watt at
7 the time they agreed to purchase mining equipment from Giga Watt for a sum
8 certain. The terms of that contract include the promises and affirmations of fact
9 made by Giga Watt as described above to provide the purchased mining equipment
10 within the timeframe specified. Based on Giga Watt's conduct and representations,
11 including Giga Watt's requirement that the mining equipment purchased by
12 Plaintiff and the Class Members be initially deployed and hosted by Giga Watt at
13 its "low hosting fee" mining facilities, Plaintiff and the Class Members had a
14 reasonable expectation Giga Watt would deploy and host the mining equipment
15 they purchased within a reasonable time period of its purported delivery to Giga
16 Watt's mining facilities.

17 145. Giga Watt breached the implied duty of good faith and fair dealing by
18 charging Plaintiff and the Class Members for mining equipment that was to be
19
20

1 delivered to Giga Watt's facilities, and then failing to deploy and operate the
2 mining equipment when it was delivered or at a reasonable point in time thereafter.

3 146. Plaintiff and the Class Members have sustained damages as a result of Giga
4 Watt's breach of the implied covenant of good faith and fair dealing in an amount
5 to be determined at trial.

6 **COUNT VIII**

7 ***Unjust Enrichment***

8 **(Against All Defendants)**

9 147. Plaintiff incorporates by reference and realleges each and every
10 allegation contained above, as though fully set forth herein.

11 148. By its wrongful acts and omissions, Giga Watt was unjustly enriched
12 at the expense of and to the detriment of Plaintiff and the Class Members. Giga
13 Watt was unjustly enriched as a result of the compensation it received for mining
14 equipment, while failing to deploy and host the equipment, and breaching the
15 duties of good faith and fair dealing it owed to Plaintiff and the Class Members.

16 149. The only reasonable expectation of the parties was that mining
17 equipment was being purchased to use for mining, which was to begin at or near
18 the time of purchase and/or delivery to Giga Watt's mining facilities. Under the
19 circumstances, it would be unjust to allow Giga Watt to profit from the sale of
20 mining equipment to Plaintiff and the Class Members that it failed to deploy and

1 make operational at or near the time of purchase. Thus, equity and good conscience
2 require restitution.

3 150. Plaintiff and the Class Members seek restitution from Giga Watt, and
4 seek an order of this Court disgorging all profits, benefits, and other compensation
5 obtained by Giga Watt from its wrongful conduct.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff prays for relief in interim orders and by way of
8 entry of final judgment in his favor, in favor of those he seeks to represent, and
9 against Defendants:

10 A. Declaring that this action is a proper class action, certifying the Class
11 as requested herein, designating Plaintiff as Class Representative and appointing
12 the undersigned counsel as Class Counsel;

13 B. Ordering Defendants to pay actual damages to Plaintiff and the Class
14 Members;

15 C. Ordering Defendants to pay punitive or exemplary damages, as
16 allowable by law, to Plaintiff and the Class Members;

17 D. Ordering Defendants to pay statutory damages, as allowable by the
18 statutes asserted herein, to Plaintiff and the Class Members;

1 E. Awarding injunctive relief as permitted by law or equity, including
2 enjoining Defendants from continuing the unlawful practices as set forth herein,
3 and ordering Defendants to engage in a corrective advertising campaign;

4 F. Ordering Defendants to pay attorneys' fees and litigation costs to
5 Plaintiff and the Class Members;

6 G. Ordering Defendants to pay both pre- and post-judgment interest on
7 any amounts awarded; and

8 H. Ordering such other and further relief as may be just and proper.

9 **JURY TRIAL DEMAND**

10 Plaintiff demands a trial by jury for all of the claims asserted in this
11 Complaint so triable.

12 DATED this 2nd day of October, 2018.

13 s/ John A. Knox

14 s/ Douglas A. Hofmann

15 John A. Knox, WSBA #12707

Douglas A. Hofmann, WSBA #6393

Williams, Kastner & Gibbs PLLC

601 Union Street, Suite 4100

Seattle, WA 98101-2380

Tel: (206) 628-6600

jknox@williamskastner.com

dhofmann@williamskastner.com

1 Timothy G. Blood (*PHV* to be filed)
2 Thomas J. O'Reardon II (*PHV* to be filed)
Aleksandr J. Yarmolinet
(*PHV* to be filed)
3 Blood Hurst & O'Reardon, LLP
4 501 West Broadway, Suite 1490
San Diego, CA 92101
5 Tel: (619) 338-1100
tblood@bholaw.com
6 toreardon@bholaw.com
ayarmolinet@bholaw.com

7 The Crypto Lawyers, LLP
8 Joseph J. Collement (*PHV* to be filed)
Rafael Yakobi (*PHV* to be filed)
9 1041 Market Street, #340
San Diego, CA 92101-7233
10 Tel: (805) 280-6944
joseph@thecryptolawyers.com
11 raphael@thecryptolawyers.com

12 Attorneys for Plaintiff
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16
17
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19
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